



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, D.C. 20570

June 7, 2012

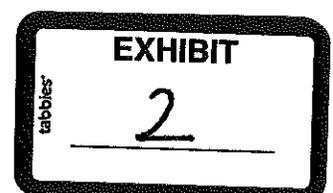
NADINE Y WEAVER
1631 REPUBLIC STREET #5
CINCINNATI, OH 45202

Re: CHICAGO AND MIDWEST JOINT
BOARD, UNITE HERE AND ITS
AFFILIATED LOCAL 12
(Ovations Food Services, L.P.)
Case 09-CB-073966

Dear Ms. Weaver:

Your appeal in the captioned matter has been carefully considered and included a thorough review of the Regional Office's investigative files as well as all additional documents that you provided on appeal. The appeal is denied.

Contrary to the assertions on appeal, the Regional Director's decision to dismiss this charge was proper. Here, the evidence revealed that the Union did submit your discharge grievance to arbitration. The Arbitrator, after a hearing held on two dates, denied your grievance. This decision is final and binding on the parties. While you make a number of criticisms regarding the Union's representation of you at the hearing before the Arbitrator, the National Labor Relations Board does not require a Union representing an employee to exercise every possible option or advocate the employee's case in a perfect manner. *Truck Drivers, Local 355 (Monarch Institutional Foods)*, 229 NLRB 1319, 1321 (1977). Further, a grievant has no special right to dictate what arguments are to be made or what testimony is to be sought. *Teamsters Local No. 542 (Golden Hill Convalescent Hospital)*, 223 NLRB 533 (1976). In this regard, it was noted that you were represented at the arbitration hearing and you and your witnesses were allowed to testify and present evidence. Moreover, evidence indicated that before and after the conclusion of the arbitration hearing the Union continued to seek your reinstatement through settlement discussions. However, you rejected several options presented by the Employer. The fact that the Union was unable to achieve results that were satisfactory to you does not provide a basis to conclude that the Union failed to properly represent you, as alleged. The evidence in its entirety failed to show that the Union was motivated by any hostility



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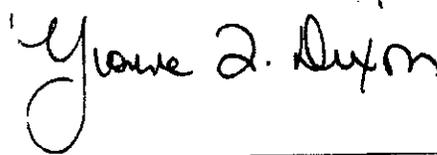
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toward you or by arbitrary or discriminatory considerations. Thus, it was determined that the burden could not be met of establishing the Union breached its duty to represent you fairly in violation of the National Labor Relations Act, as alleged. Accordingly, further proceedings are unwarranted.

Sincerely,

Lafe E. Solomon
Acting General Counsel

By:



Yvonne T. Dixon, Director
Office of Appeals

cc: GARY W. MUFFLEY
REGIONAL DIRECTOR
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